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KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			HOUSHMAND, HOOMAN	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,969

Applicant(s)

CHUANG, SHING

Examiner

Hooman Houshmand

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-19, 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/31/2009 has been entered.

Response to Amendment

2. Applicant's amendments and arguments have been fully considered.
3. Claims 1, 17 are amended. Claim 22 has been added. Claims 1-4, 7-19, 21-22 are pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4, 7-19, 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. The limitation, claim 1 lines 6-9, "*obtaining a first flow index according to the amount of said first data packet flow and the amount of a second data packet flow when said second data packet flow is assigned to said first data channel behind said first data packet flow and has the least data packet amount among said data packet flows*" is indefinite for the following reasons:

7. Claim 1 line 6 "amount of data packet flow": It is unclear whether this quantity refers to number of packets already in a queue, bandwidth of a flow session, number of bytes in a queue associated with a flow session, or the size of the individual packets.

8. Claim 1 lines 7-8 "assigning to data channel": It is unclear whether this means that a packet flow has started.

9. Claim 1 lines 7-8 "assigning behind": Since in a multiplexing system flows are interleaved, one packet of one flow succeeds the packet of another flow - It is unclear what assigning behind means.

10. Claim 1 line 6 "first flow index" is obtained "according to" the amount of first and second data packet flows. It is unclear what the function "according to" is.

11. The limitation, claim 1 lines 12-14, "*determining whether said second data packet flow is to be transferred from said first data channel to another data channel to be transmitted according to a comparing result of said first flow index and a threshold value*" is indefinite. It is unclear what the function "determining according to a comparing result" is.

12. The limitation, claims 7, 8, 9 lines 3-6, "*obtaining a second flow index according to the amount of said second data packet flow and the amount of a third data packet*

flow queuing in a second data channel where said second data packet flow is to be transferred when said first flow index is greater than said threshold value" is indefinite.

"second flow index" is obtained "according to" the amount of second and third data packet flows. It is unclear what the function "according to" is.

13. The limitation, claim 8 lines 7-8, claim 9 lines 10-11 *"remaining said second data packet flow to be assigned to said first data channel when said second flow index is greater than said threshold value"* is indefinite. It is unclear what *remaining said second data packet flow* is referring to.

14. The limitation, claim 10, *"said second data channel has the least amount of data packets in queue than the other data channels at a certain time point"* is indefinite. It is unclear if the *amount of data packets* is referring to the number of data packets or number of bytes.

15. The limitation, claim 12, *"a step of transmitting a broadcast data packet following said first data packet flow via said first data channel if said second data packet flow is determined to be transferred from said first data channel to a second data channel according to said comparing result"* is indefinite. If the claim is interpreted such that a *broadcast packet* is transmitted external to the device, then unless there is a loop in the network – this packet will not come back to the device. In addition, the *broadcast packet* is sent after all of the packets in the *first data packet flow* have been transmitted – this would happen after *second data packet flow* has already been transferred. In conclusion, it is unclear what the purpose of sending this *broadcast packet* is.

16. The limitation, claim 17 lines 4-6, "*wherein a first data packet flow queues in a first data channel to be transmitted, and a second data packet flow is assigned to said first data channel behind said first data packet flow and has the least data packet amount among said data packet flows*" is indefinite. Further explanation is provided below:

17. It is unclear whether *data packet amount* refers to number of packets already in a queue, bandwidth of a flow session, number of bytes in a queue associated with a flow session, or the size of the individual packets.

18. It is unclear whether, *data packet flow is assigned*, means that a packet flow has started.

19. It is unclear what *assigning behind* means - since in a multiplexing system flows are interleaved, one packet of one flow succeeds the packet of another flow.

20. The limitation, claim 17 lines 9-14, "*transferring said second data packet flow from said first data channel to another data channel to be transmitted and transmitting a broadcast data packet after said first data packet flow via said first data channel when the amounts of said first data packet flow, said second data packet flow and a third data packet flow queuing in said another data channel comply with a predetermined relationship; and transmitting said second data packet in response to said broadcast data packet*" is indefinite. Further explanation is provided below:

21. It is unclear what *complying with a predetermined relationship* is.

22. It is unclear what the purpose of *transmitting a broadcast data packet after said first data packet flow via said first data channel* is. If the claim is interpreted such that a *broadcast packet* is transmitted external to the device, then unless there is a loop in the network – this packet will not come back to the device. In addition, the *broadcast packet* is sent after all of the packets in the *first data packet flow* have been transmitted – this would happen after *second data packet flow* has already been transferred. In conclusion, it is unclear what the purpose of sending this *broadcast packet* is.

23. It is unclear (the last line of the claim shown above) what the function “*in response to*” in “*transmitting said second data packet in response to said broadcast data packet*” is.

24. The limitation states “*said first data packet flow via said first data channel*” and “*the amounts of said first data packet flow, said second data packet flow and a third data packet flow queuing in said another data channel*” – hence, *first data packet flow* is both associated with *first data channel* and *another data channel*. It is unclear whether the *first channel* and *another channel* are the same *channel*.

Claim Rejections - 35 USC § 102

25. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 7-19 and 21, 22 (as best understood) are rejected under 35 U.S.C. 102(e) as being anticipated by Kadambi (PGPUB 20050232274).

Regarding **Claim 1**. Kadambi teaches *a method for allocating* (Once the higher priority queues achieve their minimum bandwidth value, class of service manager 133 allocates any remaining bandwidth based upon any occurrence of exceeding the maximum bandwidth for any one priority queue Page 32 para 394 lines 15-20) *data packet flows* (packet flow is controlled by egress managers para 390 p 31 lines 12-13, Realtime applications can be implemented through a Maximum Allowable Latency Parameter, which enables COS manager 133 to schedule packet transmission such that packets on a particular COS queue are not delayed for more than a maximum allowable latency time para 290 p 22 lines 24-29) *among a plurality of data channels* (Para 71 p 3 lines 1-2: any number of ports can be provided) *of a network node* (packets are forwarded by the nodes within the network para 292 p 22 lines 13-14), *classifying* (classify and forward traffic entering the switch based upon predetermined policies para 292 p 22 lines 17-18. based upon the packet classification, actions including sending of the packet to other ports, sending the packet on certain priority queues Para 236 P 17 lines 9-12, sending the packets to a mirrored port Para 239 p 17 lines 3-6) *data packets to be transmitted via data channels into a plurality of data packet flows, a first data packet flow is assigned to and then queues* (Queue value used when sending the Packet to the Egress Port para 307 p 22, each EPIC and each GPIC contains a FIFO queue para 334

p 26 line 16 output queue for a particular port para 386 p 30 line 24 packet sent to the appropriate output queue para 386 p 30 line 42) *in a first data channel to be transmitted* (first data packet destined for a given address para 223 p 15 lines 1-3, first transmission link para 7 p 1 line 12);

obtaining a first flow index according to the amount of first data packet flow and the amount of a second data packet flow (page 1 paragraph [0007] determining a flow rate of the first frame and the second frame entering the link aggregation environment. Then a step of determining if the flow rate (the sum of the rate of the first frame and the second frame) exceeds a predetermined flow rate threshold. Paragraph 289 page 21 lines 8-9: the rate or flow, of the stream of packets selected by a classifier), *first data packet flow queues in first data channel, and second data packet flow is assigned to first data channel* (a first data packet and a second data packet come into a single port interface controller 20 para 221 p 14 lines 2-3) *behind first data packet flow and has the least data packet amount at a specified* ([0451] first packet needs to be smaller than the second before the packet is determined to be a candidate for switching; para 7 p 1 load balancing in a link aggregation environment, determining a flow rate of the first frame and the second frame entering the link aggregation environment, determining if the first frame and the second frame are candidates for link switching; Fig. 49, 50, 51, 53, 54, 55) *time point among data packet flows;*

and determining whether second data packet flow is to be transferred from first data channel to another data channel (determining if the second frame is a candidate for link switching para 7 p 1 lines 9-10) *to be transmitted according to a comparing result of first*

flow index and a threshold value (method for load balancing in a link aggregation environment including the steps of determining a length of a first frame and a length of a second frame entering the link aggregation environment. Thereafter, determining a flow rate of the first frame and the second frame entering the link aggregation environment. Then a step of determining if the flow rate exceeds a predetermined flow rate threshold is undertaken, and thereafter, a step of determining if the first frame and the second frame are candidates for link switching is completed. As a final step, the method switches a transmission link for the second frame from a first transmission link to a second transmission link para 7 p 1);

the least data packet amount is selected by rearranging said data packet flows in sequence according to data packet amount at a specified time point ([0451] comparing the size of the first packet in line for transmission and the size of the second packet in line for transmission - thus comparing the size of the packets from the packet flows).

Regarding **Claim 2**. Kadambi teaches *step of classifying* (classify and forward traffic entering the switch based upon predetermined policies para 292 p 22 lines 17-18. Based upon the packet classification, actions including sending of the packet to other ports, sending the packet on certain priority queues Para 236 P 17 lines 9-12, sending the packets to a mirrored port Para 239 p 17 lines 3-6) *data packets into data packet flows: performing an operation of a specified tag value* (para [0191] p 12 Tag Identifier as described in IEEE 802.1Q standard) *included in each of data packets to obtain*

respective feature values ([0186] p 11 identifies the Trunk selection. the destination address. Source Mac Address. Destination Mac Address. Source IP Address. Destination IP Address) of data packets; and classifying the data packets having the same feature value in the same data packet flow (para [0210] p 12 placing all similarly tagged members in ports. Para 212 p 12 port bitmap identifies all of the ports on which the packet should be sent).

Regarding **Claim 3**. Kadambi teaches *tag value includes a destination media access control (DMAC) address, an internet protocol (IP) address and a transmission control protocol (TCP) address ([0186] p 11 Destination Mac Address. IP Address) ([0239] p 17 lines 8-11 filtering logic selectively parses predetermined fields from the incoming data packets, obtaining the values of MAC, IP, TCP).*

Regarding **Claim 7**. Kadambi teaches *transference determining step: obtaining a second flow index according to the amount of second data packet flow and the amount of a third data packet flow queuing in a second data channel (Para 71 p 3: any number of ports can be provided) where second data packet flow is to be transferred when first flow index is greater than threshold value; and transferring second data packet flow from first data channel to second data channel to be transmitted when second flow index is no greater than threshold value (The reference teaches that multiple frames with different flow rates can be carrier over a link. When the aggregate flow rate*

exceeds a threshold, another link is selected to carry the additional load. The new link has to be underutilized to carry this extra load Para 7 p 1, [0164] p10).

Regarding **Claim 8**. Kadambi teaches *transference determining step: obtaining a second flow index according to the amount of second data packet flow and the amount of a third data packet flow queuing in a second data channel where second data packet flow is to be transferred when first flow index is greater than threshold value; and remaining second data packet flow to be assigned to first data channel when second flow index is greater than threshold value* (The reference teaches that multiple frames with different flow rates can be carrier over a link. When the aggregate flow rate exceeds a threshold, another link is selected to carry the additional load. The new link has to be underutilized to carry this extra load Para 7 p 1, [0164] p10).

Regarding **Claim 9**. Kadambi teaches *transference determining step: obtaining a second flow index according to the amount of second data packet flow and the amount of a third data packet flow queuing in a second data channel* (Para 71 p 3 lines 1-2: any number of ports can be provided) *where second data packet flow is to be transferred when first flow index is greater than threshold value; transferring second data packet flow from first data channel to second data channel to be transmitted when second flow index is no greater than threshold value* (The reference teaches that multiple frames with different flow rates can be carried over a link. When the aggregate flow rate exceeds a threshold another link is selected to carry the additional load. The new link

has to be underutilized to carry this extra load Para 7 p 1, [0164] p10); *and remaining second data packet flow to be assigned to first data channel when second flow index is greater than threshold value* (method for load balancing in a link aggregation environment including the steps of determining a length of a first frame and a length of a second frame entering the link aggregation environment. Thereafter, determining a flow rate of the first frame and the second frame entering the link aggregation environment. Then a step of determining if the flow rate exceeds a predetermined flow rate threshold is undertaken, and thereafter, a step of determining if the first frame and the second frame are candidates for link switching is completed. As a final step, the method switches a transmission link for the second frame from a first transmission link to a second transmission link para 7 p 1).

Regarding **Claim 10**. Kadambi teaches *second data channel has the least amount of data packets in queue than the other data channels at a certain time point* (preventing port starvation [0167] p 10 line 6) (when the amount of packets in queue reaches the low watermark value, the port is enabled. This controls the data flow of all ports [0164] p 10).

Regarding **Claim 11**. Kadambi teaches *transference determining step is repetitively performed at a constant interval* (A timer/counter has a preset time period, at the end of which the new port map is provided [0387] p 31 lines 5-9).

Regarding **Claim 12**. Kadambi teaches *a step of transmitting a broadcast data packet* ([0104] p6 Broadcast that identifies the port the packet should be sent to) ([0091] - [0131] fig. 3, 5, 6, fig. 8 element 14a ingress submodule, 16a egress submodule, 81 C channel, P channel, S channel, fig. 10, 13, fig. 14 element 81 C_CHNL, 82 P_CHNL, 83 S_CHNL, 142 Input FIFO, fig. 16 elements 81-83) *following first data packet flow via first data channel if second data packet flow is determined to be transferred from first data channel to a second data channel* (packet assembly and notification to the respective ports, rerouting of packets via a global buffer manager, as well as handling packet flow [0161] p 9 lines 3-6).

Regarding **Claim 13**. Kadambi teaches *second data packet flow starts to be transferred* (transferring multiple packets of data (line 13); transferring cells, checking active ports, queue availability [0403] p 33 lines 21-24) *via second data channel after broadcast data packet is received by at least one of data channels* (if the incoming packet were a broadcast packet, each egress manager 76 to which the packet is directed will receive the PID [0392] p 31 lines 12-14).

Regarding **Claim 14**. Kadambi teaches *second data packet flow starts to be transferred via second data channel after a preset time period* (the link is switched, determined by the preset threshold value [0450] p 38 line 17-18. After every arbitration time period the next I/O module with a valid request would be given access to the C channel 81 [0090] p 5 lines 8-9. A timer/counter has a preset time period, at the end of which the new port

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map is provided [0387] p 31 lines 5-9) *from the insertion of broadcast data packet to be transmitted via the first data channel* (for broadcast messages, the message is forwarded to uncongested ports [0386] p 31 lines 54-56).

Regarding **Claim 15**. Kadambi teaches *second data packet flow starts to be transferred* (transferring multiple packets of data (line 13); transferring cells, checking active ports, queue availability [0403] p 33 lines 21-24) *via second data channel after broadcast data packet is received by one of data channels* (the incoming packet is a broadcast packet, each egress manager 76 to which the packet is directed will receive the PID. [0392] p 31 lines 12-14), *and if there is no data channel receiving broadcast data packet at the end of a preset time period, second data packet flow starts to be transferred via second data channel* (the link is switched, determined by the preset threshold value [0450] p 38 line 17-18) (After every arbitration time period the next I/O module with a valid request would be given access to the C channel 81 [0090] p 5 lines 8-9) (A timer/counter has a preset time period, at the end of which the new port map is provided [0387] p 31 lines 5-9).

Regarding **Claim 16**. Kadambi teaches *broadcast data packet comprises an identifying code of second data packet flow* ([0104] p6 Broadcast that identifies the port the packet should be sent to).

Regarding **Claim 17**. Kadambi teaches *a method for allocating* (Once the higher priority queues achieve their minimum bandwidth value, class of service manager 133 allocates any remaining bandwidth based upon any occurrence of exceeding the maximum bandwidth for any one priority queue Page 32 para 394 lines 15-20) *data packet flows among a plurality of data channels of a network node, classifying* (classify and forward traffic entering the switch based upon predetermined policies para 292 p 22 lines 17-18. based upon the packet classification, actions including sending of the packet to other ports, sending the packet on certain priority queues Para 236 P 17 lines 9-12, sending the packets to a mirrored port Para 239 p 17 lines 3-6) *data packets to be transmitted via data channels into data packet flows, a first data packet flow queues in a first data channel to be transmitted, and a second data packet flow is assigned to first data channel behind first data packet flow and has the least data packet amount at a specified* ([0451] first packet needs to be smaller than the second before the packet is determined to be a candidate for switching; para 7 p 1 load balancing in a link aggregation environment, determining a flow rate of the first frame and the second frame entering the link aggregation environment, determining if the first frame and the second frame are candidates for link switching) *time point among data packet flows; transferring second data packet flow from first data channel to another data channel to be transmitted* (determining a flow rate of the first frame and the second frame entering the link aggregation environment. Then a step of determining if the flow rate exceeds a predetermined flow rate threshold is undertaken, and thereafter, a step of determining if the first frame and the second frame are candidates for link switching is completed. As a

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final step, the method switches a transmission link for the second frame from a first transmission link to a second transmission link para 7 p 1 lines 5-13) *and transmitting a broadcast data packet* ([0104] p6 Broadcast that identifies the port the packet should be sent to) *after first data packet flow via first data channel when the amounts of first data packet flow, second data packet flow and a third data packet flow queuing in another data channel comply with a predetermined relationship* (classify and forward traffic entering the switch based upon predetermined policies para 292 p 22 lines 17-18); *and transmitting second data packet in response to broadcast data packet* (the incoming packet is a broadcast packet, each egress manager 76 to which the packet is directed will receive the PID. [0392] p 31 lines 12-14);

the least data packet amount is selected by rearranging said data packet flows in sequence according to data packet amount at a specified time point ([0451] comparing the size of the first packet in line for transmission and the size of the second packet in line for transmission - thus comparing the size of the packets from the packet flows).

Regarding **Claim 18**. Kadambi teaches *predetermined relationship is that the sum of the amounts of first data packet flow and second data packet flow is greater than a threshold value* (determining a flow rate of the first frame and the second frame entering the link aggregation environment. Then determining if the flow rate exceeds a predetermined flow rate threshold para 7 p 1), *and the sum of the amounts of third data packet flow and second data packet flow is no greater than a threshold value* (For every

port, there is a low watermark and a high watermark; if cell count is below the low watermark, the packet is admitted [0167] p10 lines 3-6).

Regarding **Claim 19**. Kadambi teaches *second data packet flow starts to be transferred* (transferring multiple packets of data (line 13); transferring cells, checking active ports, queue availability [0403] p 33 lines 21-24) *after broadcast data packet is received by at least one of data channels* (if the incoming packet were a broadcast packet, each egress manager 76 to which the packet is directed will receive the PID [0392] p 31 lines 12-14), *and if there is no data channel receiving broadcast data packet at the end of a preset time period, second data packet flow also starts to be transferred* (the link is switched, determined by the preset threshold value [0450] p 38 line 17-18) (After every arbitration time period the next I/O module with a valid request would be given access to the C channel 81 [0090] p 5 lines 8-9) (A timer/counter has a preset time period, at the end of which the new port map is provided [0387] p 31 lines 5-9).

Regarding **Claim 21**. Kadambi teaches *broadcast data packet comprises an identifying code of second data packet flow* ([0104] p6 Broadcast that identifies the port the packet should be sent to).

Regarding **Claim 22**. Kadambi teaches *broadcast data packet flow comprises identifying code of the second data packet flow* ([0104] p6 Broadcast that identifies the

port the packet should be sent to –the packet and the port are identified which signifies the presence of an identification code).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kadambi, in view of Vepa (US 6567377).

Regarding **Claim 4**, Kadambi teaches *tag value includes a destination media access control (DMAC) address, an internet protocol (IP) address and a transmission control protocol (TCP) address* ([0186] p 11 Destination Mac Address. IP Address), ([0239] p 17 lines 8-11 filtering logic selectively parses predetermined fields from the incoming data packets, obtaining the values of MAC, IP, TCP);

In addition, Kadambi teaches *operation is an exclusive OR (XOR) operation* ([0338] p 27 lines 79-80: the source MAC address is XORED with the destination MAC address).

Kadambi does not teach *operation is an exclusive OR (XOR) operation involving IP, TCP*.

In the same field of endeavor, Vepa discloses *operation is an exclusive OR (XOR) operation involving IP, TCP (7:45-67)*.

It would have been obvious to a person having ordinary skill in the art, at the time that the invention was made, to combine the teachings of Vepa with Kadambi to perform load balancing.

Response to Arguments

28. Applicant's arguments with respect to amended claims have been considered but are moot in view of the new ground(s) of rejection.

29. The argument, on pages 8-9, is that the new limitation (claim 1 lines 9-11) "*the least data packet amount is selected by rearranging said data packet flows in sequence according to data packet amount at a specified time point*" is not disclosed by the reference. Examiner respectfully disagrees. The interpretation of *data packet amount* is the amount of data in the packet, equivalently the size of the packet, or the number of bits in the packet. The reference teaches ([0451]) comparing the size of the first packet in line for transmission and the size of the second packet in line for transmission.

Hence the reference teaches comparing the size of the packets from the packet flows.

30. The argument, on page 9, is that the "claimed time" (page 9 Re claim 12 second paragraph second line) is not disclosed by the reference. Examiner respectfully points out that there is no *time* specified in the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hooman Houshmand whose telephone number is (571)270-1817. The examiner can normally be reached on Monday - Friday 8am - 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571)272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. H./
Examiner, Art Unit 2419

/Hassan Kizou/
Supervisory Patent Examiner, Art Unit 2419